

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Robert and Katy Ginsburg,	)	
	)	
Complainants,	)	
	)	
v.	)	Case No. 13-1334-TR-CSS
	)	
Hightower Moving,	)	
	)	
Respondent.	)	

FINDING AND ORDER

The Commission finds:

- (1) On June 5, 2013, Robert and Katy Ginsburg (Complainants), filed a complaint against Hightower Moving (Hightower), a household goods carrier registered with the Commission. In their complaint, Complainants alleged that Hightower's employees behaved in a rude and unprofessional manner while completing moving services for Complainants, from Maumee, Ohio, to Kodak, Tennessee, where they now reside. Further, Complainants contended that they received a quoted price of \$3,000 from Hightower prior to the move, and that Hightower unfairly increased the price by an additional \$1,500 during the move. Complainants requested a refund from Hightower in the amount of \$1,500, as they assert they were unreasonably overcharged by this amount. Hightower was served with a copy of the complaint at the address listed in the complaint, but did not file an answer to the complaint in accordance with Rule 4901-9-01(D), Ohio Administrative Code (O.A.C.).

- (2) By entry issued July 2, 2013, a settlement conference was scheduled for July 23, 2013. The settlement conference was held as scheduled; however, Hightower did not participate in the conference.
- (3) Thereafter, on July 2, 2013, Hightower was served with a copy of the complaint at an alternate address listed for the company in the Commission's directory of registered household goods carriers. Hightower again did not file an answer to the complaint in accordance with Rule 4901-9-01(D), O.A.C.
- (4) By entry issued July 29, 2013, a second settlement conference was scheduled for August 8, 2013. The second settlement conference was held as scheduled; however, Hightower again did not participate in the settlement conference.
- (5) Initially, the Commission notes that the burden of proof in a complaint proceeding is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Further, Rule 4901-9-01(D), O.A.C., provides that a "public utility shall state in its answer \* \* \* its defenses to each claim asserted, and shall admit or deny the allegations upon which the complaint relies." Rule 4901-9-01(D), O.A.C., continues that "[a]ll material allegations in the complaint which are not denied in the answer shall be deemed admitted for purposes of the proceeding."
- (6) The Commission finds that, as Hightower failed to file an answer denying the material allegations in the complaint, the material allegations in the complaint are deemed admitted by Hightower, pursuant to Rule 4901-9-01(D), O.A.C., including the allegation that Hightower gave an estimate of \$3,000 to move Complainants' property, and then required Complainants to pay an additional \$1,500 during the provision of the services.

- (7) Rule 4901:2-19-08, O.A.C., sets forth the parameters and requirements for estimates provided by household goods movers to customers. Based on the allegations set forth in the complaint, Hightower's increase from the estimated \$3,000 to \$4,500 exceeded the parameters for the estimate provided to Complainants. Accordingly, Hightower was in violation of Rule 4901:2-19-08, O.A.C.
- (8) Further, Rule 4901:2-19-16(A), O.A.C., provides that no carrier shall commit a deceptive or unconscionable act or practice in connection with a transaction related to the transportation of household goods within this state. Such a deceptive or unconscionable act or practice is prohibited by this paragraph irrespective of whether it occurs before, during, or after such a transaction. As we have found that all allegations in the complaint have been admitted by Hightower, we find Hightower committed a deceptive or unconscionable act or practice in violation of Rule 4901:2-19-16(A), O.A.C., by requiring Complainants to pay \$1,500 more than the estimated price during the provision of services.
- (9) As to Complainants' request for a refund from Hightower in the amount of \$1,500, the Commission has no power to grant money damages related to this complaint. However, under Section 4905.61, Revised Code, a common pleas court may grant money damages. Therefore, if Complainants seek to pursue any monetary relief related to this complaint, such relief should be sought through an appropriate action in a court of common pleas.
- (10) Finally, we find that the Commission's Staff should conduct a customer service audit and a safety audit of Hightower in light of the rule violations and failure to answer the complaint.

It is, therefore,

ORDERED, That Hightower has admitted the allegations in the complaint. It is, further,

ORDERED, That Hightower violated Rules 4901:2-19-08 and 4901:2-19-16(A), O.A.C., for the reasons set forth in Findings (7) and (8). It is, further,


ORDERED, That Staff conduct a customer service audit and a safety audit of Hightower. It is, further,

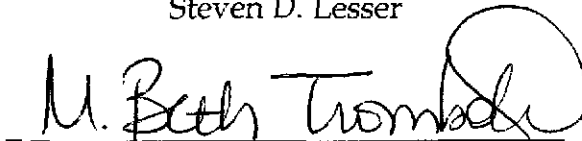
ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
Lynn Slaby

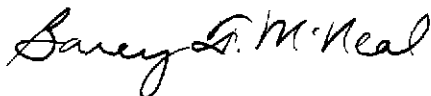
  
M. Beth Trombold

  
Asim Z. Haque

MWC/sc

Entered in the Journal

**OCT 30 2013**



Barcy F. McNeal  
Secretary